

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

October 3, 2003

GSBCA 16170-TRAV

In the Matter of JOHN L. CORRIGAN

John L. Corrigan, Auburn, WA, Claimant.

Kathy Sachen-Gute, Office of General Counsel, National Credit Union Administration, Alexandria, VA, appearing for National Credit Union Administration.

BORWICK, Board Judge.

Claimant, an examiner with the National Credit Union Administration (NCUA or agency), has filed claims at this Board contesting the agency's denial of expenses allegedly incurred on two separate temporary duty (TDY) trips, one to Orlando, Florida, and another trip to Alexandria, Virginia. We deny both claims since the agency correctly applied the provisions of its governing travel manual and of the Federal Travel Regulation (FTR) incorporated therein.

Background

Florida Trip

From August 11 through August 16, 2002, claimant traveled on official business to Orlando, Florida, from his permanent duty station (PDS) in Seattle, Washington. The purpose of the trip was to attend a conference. The agency advised the employees traveling to the conference that they could use a discount airline ticket and stay an extra night at a hotel if the combined cost of the extra night at the hotel and the discount airline ticket would result in a savings to the Government.

Claimant, however, arranged his travel using an indirect route. Claimant booked a one-way trip from Seattle to Orlando. He booked his return trip from Fort Lauderdale, not Orlando, and for August 24, not for August 16 (when the conference ended).

Claimant stayed at the Wyndham Palace Hotel during the conference. At the end of the conference on August 16, claimant went to Fort Lauderdale instead of returning directly to his PDS in Seattle. Claimant states:

For personal convenience I traveled to Orlando, FL on Saturday (rather than Sunday), took a taxi (rather than the \$23 round-trip shuttle), and took alternative transportation when leaving [the] Wyndham Palace to Fort Lauderdale. I also stayed in a Holiday Inn Express on Friday, August 16, 2002, on my way to Fort Lauderdale.

Claimant submitted a voucher for the entire trip that the agency partially disallowed. The agency refused to reimburse claimant \$261.30 worth of incurred expenses. Those expenses included, according to claimant, \$125 for lodging at the Wyndham Palace on Saturday, August 10. As to that expense, claimant states:

The Saturday night [August 10] stay at the Wyndham Palace was paid by [the agency]. I do not have that cost. I estimated the cost of that night to be \$125.

According to the electronic vouchers submitted to the Board by the agency, the hotel directly billed the lodging cost to the agency. In its submission to the Board, the agency confirms that it paid for that night's lodging cost, but that the cost it paid was \$99, not \$125. The agency, therefore, refused to reimburse claimant the \$125 for the night at the Wyndham Palace because the agency had already paid for that night. It refused to reimburse claimant for the other claimed costs because claimant incurred those costs for his personal convenience--his trip to Fort Lauderdale--and not for Government business--the conference in Orlando. It did reimburse claimant \$23 for the cost of the round-trip shuttle between the Orlando Airport and the Wyndham Palace.

Virginia Trip

On Sunday, September 29, 2002, claimant traveled on official business from his PDS to Alexandria, Virginia, to attend a training session that was to begin Monday. The agency scheduled the training session to end at noon on Friday, October 4.

On October 2, claimant and his supervisor conducted an e-mail message conversation about claimant's return to his PDS. Claimant told his supervisor that he had considered returning to Seattle on a nonstop flight from Dulles International Airport on the afternoon of October 4. In his experience, however, Dulles was "not pleasant." Claimant said that he planned to return to Seattle Saturday morning from Reagan National Airport. In response, claimant's supervisor told claimant that the agency would not authorize claimant's reimbursement of lodging expenses for the night of October 4 because claimant had ample time to return to Seattle on the afternoon of October 4.

The training session ended as scheduled at noon on October 4. The agency reports, without contradiction from claimant, that claimant could have taken non-direct flights from Reagan National Airport at 2:00 p.m. or 3:00 p.m. Eastern Time, which would have arrived in Seattle at 6:21 or 7:21 Pacific Time, respectively. Additionally, the agency reports that there was at least one non-stop flight to Seattle from Dulles International Airport at 5:00 p.m. that would have arrived in Seattle at about 8:00 p.m.

Instead of taking those flights on October 4, claimant stayed a night in the Washington, D.C., area and incurred lodging expenses for that night. Claimant took annual leave for the rest of the work day on October 4, even though the agency had advised claimant that he would be paid "travel time" for the remainder of the work day if he returned to Seattle on Friday after the training session had ended. Claimant returned to Seattle from his trip on Saturday, October 5. Upon claimant's return, he submitted a voucher requesting reimbursement for lodging and per diem for the night of October 4 and meals and incidental expenses (M&IE) for October 5. The agency denied claimant reimbursement of lodging for October 4 and M&IE for October 5 because his late return to his PDS was not authorized. The agency granted claimant partial M&IE for October 4.

Discussion

The National Credit Union Administration

The NCUA is an independent federal agency which regulates, supervises, and insures federal credit unions and federally insured state-chartered credit unions pursuant to the Federal Credit Union Act, 12 U.S.C. §§ 1751-1795k (2000). The NCUA is composed of a board located in Alexandria, Virginia; six regional offices; and other specified offices. 12 CFR 790.2(a) (2002). The NCUA is managed by its board, which consists of three members appointed by the President, with the advice and consent of the Senate, for six-year terms. 12 U.S.C. § 1752a(b), (c); 12 CFR 7902(b)(1).

Statute provides the board with broad appointment and spending authorities:

In addition to the authority conferred upon it by other sections of this chapter, the Board is authorized in carrying out its functions under this chapter--

(1) to appoint such personnel as may be necessary to enable the Administration to carry out its functions;

(2) to expend such funds, enter into such contracts with public and private organizations and persons, make such payments by advance or by way of reimbursement . . . without regard to the provisions of any other law applicable to executive or independent agencies of the United States.

12 U.S.C. § 1766(i)(1), (2).

Pursuant to its authority, the NCUA has promulgated the NCUA Travel Manual (manual). The manual incorporates the provisions of the FTR, but also provides that where there is an inconsistency between the FTR and the manual, the manual shall take precedence. Manual ¶ 1-2. In analyzing these claims, therefore, we shall rely on both the manual and any relevant provisions of the FTR that are not inconsistent with the manual.

Florida Trip

Claimant maintains he is entitled to reimbursement of the amount the agency disallowed on a constructive cost theory. Claimant says that reimbursement of all of his claimed expenses, including the \$261.30 the agency had disallowed, would be less than the cost of the trip had claimant traveled as authorized by the agency.

Claimant is not entitled to reimbursement of \$125 for the August 10 stay at the Wyndham Palace because the agency has already paid for that night. Under the manual, claimant is only entitled to the "actual cost of lodging incurred by the traveler, up to the maximum allowed." Manual ¶ 5-4A.4.b; cf. 41 CFR 301-11.100 (comparable FTR provision). Since lodging for the night of August 10 was billed directly to the Government, claimant did not incur the expense and is thus not entitled to reimbursement for that night, regardless of any constructive cost theory claimant advances.

The remainder of the \$261.30 the agency disallowed was for transportation and lodging expenses claimant incurred in connection with claimant's personal trip to Fort Lauderdale, not for the conduct of official business. We have explained, in a decision involving this claimant, that employees are to be reimbursed only for necessary and reasonable expenses essential to the transaction of government business. John L. Corrigan, GSBCA 16096-TRAV (May 22, 2003), appeal docketed, No. 03-1511 (Fed. Cir. July 23, 2003); see Manual ¶ 1-3; 41 CFR 301-2.2, -2.4; Phillip V. Otto, GSBCA 16192-TRAV (Aug. 18, 2003). Indeed, the FTR states explicitly that an agency will not pay for services "unnecessary or unjustified in the performance of official business." 41 CFR 301-2.4. Since claimant incurred the expenses in furtherance of his personal trip to Fort Lauderdale, those amounts may not be reimbursed.

Virginia Trip

Claimant's training session ended at noon on Friday, October 4. Claimant chose to spend an extra night in the Washington, D.C., area instead of flying to Seattle on Friday afternoon. Claimant explains that his traveling that night would have meant, in his mind, working a fifteen or sixteen hour day.

We have held that an employee who delays his travel several nights for personal convenience is not entitled to per diem for those nights since the employee's absence from his PDS on those nights was not in furtherance of Government business. Leo Bosner, GSBCA 15855-TRAV, 03-1 BCA ¶ 32,234. The General Accounting Office, our predecessor in deciding claims filed under 31 U.S.C. § 3702, has held that an employee who delays travel from Friday to Monday in order to increase per diem will be limited to the amount otherwise payable if the return travel had been performed without interruption after completion of temporary duty on Friday. George K. Derby, B-203,915 (June 8, 1982); 55 Comp. Gen. 590 (1975); Ernest W. Vogt, 46 Comp. Gen. 425 (1966). In this case there were ample and convenient mid-to late-afternoon flights available to claimant to return him to Seattle after the end of the training session. It would have been practical for claimant to take one of those flights. The fact that claimant did not desire to travel that day was a matter of his personal convenience and, moreover, violated his supervisor's warning that he would not be reimbursed for a delayed departure.

Decision

The Board denies the claims.

ANTHONY S. BORWICK
Board Judge